

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

SPOKANE TRIBE OF INDIANS,

Plaintiff/Intervenor,

v.

BARBARA J. ANDERSON, et al.,

Defendants.

No. CV-72-3643-JLQ

ORDER APPROVING WATER  
MASTER'S 2005 ANNUAL  
REPORT; CONTINUING WATER  
MASTER SERVICE; APPROVING  
COMPENSATION AND  
EXPENSES; AND ADDRESSING  
ADDITIONAL MATTERS

This matter was heard on Report and Recommendation on April 26, 2005, before Special Master Magistrate Judge Cynthia Imbrogno, following filing of the Water Master's 2005 Annual Report (October 1, 2004, through September 30, 2005) (Ct. Rec. 567). It appears that the report and recommendations are in compliance with the previous directives of this court establishing compensation and expense reimbursements for the Water Master and for payment.

No objections have been filed, except for the letter dated May 9, 2006, from Nicholas D. Pemberton, which is not styled as an objection, but does seek clarification as to whether payment of the Water Master's compensation was to be made at the end of the prior year. As the Water Master explained at the April 26<sup>th</sup> hearing, "generally I require it be paid by the end of December of that year. And I don't require quarterly payments, I allow people to pay at the end of the year, rather than . . . sending four individual checks, which people tend to like." Accordingly, payment shall be deemed in arrears and delinquent at the close of business December 31<sup>st</sup> for each year.

ORDER APPROVING WATER MASTER'S 2004 ANNUAL REPORT;  
CONTINUING WATER MASTER SERVICE; APPROVING COMPENSATION  
AND EXPENSES; AND ADDRESSING ADDITIONAL MATTERS - 1

1 As no other objections have been filed, the Special Master's Report and  
2 Recommendation is **ADOPTED**.

3 **IT IS ORDERED:**

4 1. That the 2005 Annual Report of the Water Master, covering the period of  
5 October 1, 2004, to September 30, 2005, is accepted. It appears there is consensus of all  
6 parties to everything in the Water Master's Report, with the exception of the issues  
7 previously noted and addressed in Ct. Rec. 583 (Order of Special Master filed May 3,  
8 2006), and with the exception of pending show cause matters related to Mr. Newhouse,  
9 to be addressed by separate order.

10 2. That the Water Master's proposal for the 2006 compensation agreement  
11 shall remain the same as in previous agreements. Specifically, the Water Master's  
12 request for compensation and expenses is approved, consistent with previous agreements  
13 **(\$3,740 quarterly retainer, and a maximum of \$2,500 for expenses)**, as delineated at  
14 page 7 of the 2005 Annual Report.

15 3. That reimbursement for vehicle mileage is changed from 29 cents per mile  
16 to 48.5 cents per mile for the 2006 water year, consistent with the current IRS mileage  
17 allowance.

18 4. That the 2005 Annual Report and fourth quarter billing (July 1, 2005,  
19 ending September 30, 2005), as reflected on pages 7-9 of the 2005 Annual Report (total  
20 amount to be billed of **\$4,340 (\$3,740 retainer, plus \$600 expenses)**), is approved.

21 5. That future tardy Water Master compensation payments by water rights  
22 owners shall be addressed with court-ordered sanctions, including awarding collection  
23 costs to the Water Master and including the loss of water rights temporarily (until  
24 compensation payments are current) or permanently, in appropriate circumstances.  
25 Specifically, Mr. Newhouse is directed to become current as to the **\$351.68** past-due  
26 assessments for the four quarters of 2005 within thirty (30) days of this Order Adopting  
27

28 **ORDER APPROVING WATER MASTER'S 2004 ANNUAL REPORT;  
CONTINUING WATER MASTER SERVICE; APPROVING COMPENSATION  
AND EXPENSES; AND ADDRESSING ADDITIONAL MATTERS - 2**

1 the Report and Recommendation or shall show cause, within thirty (30) days from the  
2 date of this Order by written filing, why he should not be required to do so.<sup>1</sup>

3 The Clerk of the Court shall file this Order Adopting Report and Recommendation  
4 and serve copies of it on Judge Imbrogno and on the parties listed on the most recently  
5 updated Notice List attached to this Order.

6 DATED this 29th day of May, 2006.

7 s/ Justin L. Quackenbush  
8 JUSTIN L. QUACKENBUSH  
9 SENIOR UNITED STATES DISTRICT JUDGE  
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22 <sup>1</sup>By separate Order to Show Cause filed by the Special Master on May 9, 2006,  
23 Mr. Newhouse also was directed to address the \$695.46 delinquency through the 4<sup>th</sup>  
24 quarter of 2004. Mr. Newhouse reportedly owes a total of \$1,047.14 (\$695.46 for the  
25 1<sup>st</sup> quarter of 2003 through the 4<sup>th</sup> quarter covered by the 2004 Report and \$351.68 for  
26 the four quarters covered by the 2005 Report). (Ct. Rec. 582, Lyerla Decl. at 2.) The  
27 \$695.46 delinquency will be addressed by separate order.

28 ORDER APPROVING WATER MASTER'S 2004 ANNUAL REPORT;  
CONTINUING WATER MASTER SERVICE; APPROVING COMPENSATION  
AND EXPENSES; AND ADDRESSING ADDITIONAL MATTERS - 3